
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

JAMES GREGORY LYNN,

Plaintiff,

versus

ARTHUR N. COLLIER, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:05-CV-537

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff James Gregory Lynn, an inmate at the Connally Unit, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends Plaintiff's complaint be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

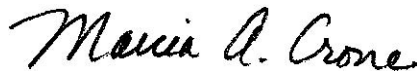
After careful consideration, the court concludes Plaintiff's objections are without merit. Plaintiff complains of being assaulted by S. Wood, a correctional officer at the Stiles Unit. Additionally, Plaintiff complains of other officials' failure to protect him from such assaults.

However, Plaintiff states in his complaint that Defendant Wood quit his job as a correctional officer following the second assault alleged by Plaintiff, approximately one month prior to Plaintiff's filing his complaint. Therefore, at the time Plaintiff filed the complaint in the above-styled action, there was no imminent threat posed by such officer. Further, Plaintiff has failed to show that there was any threat of serious bodily injury. While Plaintiff complains of the acts of Defendant Wood, the only medical treatment Plaintiff states he received as a result of Defendant Wood's conduct was the administration of a topical antibiotic ointment, suggesting a *de minimis* injury. Accordingly, Plaintiff is barred from pursuing his claims *in forma pauperis* pursuant to 28 U.S.C. § 1915(g).

ORDER

Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED at Beaumont, Texas, this 21st day of March, 2006.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE